

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

DONTE MORRIS

v.

MICHAEL O. LEAVITT,  
Secretary, U.S. Dept. of Health and Human  
Services

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: CIVIL NO. CCB-06-3092  
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**MEMORANDUM**

The defendant Secretary of Health and Human Services has filed a motion to dismiss or for summary judgment in this employment discrimination case brought by pro se plaintiff Donte Morris. Mr. Morris, despite having been given notice of the motion, has not filed a response. For the reasons that follow, the motion will be granted.

Morris raises various claims relating to his voluntary resignation from the FDA on September 23, 2006. The resignation followed notice that the FDA proposed to remove him for excessive absences and related issues. He now claims constructive discharge, discrimination, harassment, and retaliation. The comprehensive memorandum and exhibits submitted by the Secretary, however, demonstrate that Morris's supervisors made reasonable efforts over a substantial period of time to deal with his absenteeism in a way that would accommodate Morris's legitimate medical issues but still result in the provision of services to the public as required by Morris's job responsibilities.

First, the bulk of Morris's claims are subject to dismissal under Rule 12(b)(1) for failure to exhaust administrative remedies. Second, they are subject to dismissal under Rule 12(b)(6) or summary judgment under Rule 56 for failure to state *prima facie* claims and for failure to offer evidence that the Secretary's legitimate nondiscriminatory reasons for his actions were pretext

for discrimination. Accordingly, Morris cannot prevail on any of his claims.

A separate Order follows.

July 6, 2007

Date

/s/

Catherine C. Blake  
United States District Judge